IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7031 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VIRSING MAVA

Versus

STATE OF GUJARAT

Appearance:

MR DF AMIN for Petitioners

MR BY MANKAD ASSISTANT GOVERNMENT PLEADER for Respondent No. 1, 2

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 28/04/2000

ORAL JUDGEMENT

This is a petition under Articles 14 and 226 of the Constitution of India filed by the petitioners above named.

2. The petitioners have come out with the case that

they are all agriculturists having their lands at village Jinjari in Devgadhbaraiya Taluka of Panch Mahals District; that the State Government undertook a project known as Jinjari Irrigation Pond; that therefore the lands of the petitioners were required to be acquired by the State Government about 5 years before institution of the suit; that the total area of lands so acquired was around 175 Acres; that at the time of acquisition of the said lands, they were assured by the State Government i.e. first respondent that they would be provided with alternative plots of land so that the petitioners can continue their cultivation and earn their livelihood. On the strength of the said assurance, the petitioners did not file any reference under Section 18 of the Land Acquisition Act for compensation or any additional compensation.

Even after lapse of so many years after acquisition of the lands, no order for allotment of alternative plots of land had been passed by the respondents. Therefore, the petitioners made representations before the Hon'ble Minister in 1977. Certain action was taken, but the petitioners did not get the land in lieu of the lands acquired as aforesaid. Therefore, the present petition has been filed for allotment of land in lieu of the lands acquired as aforesaid.

3. Notice was issued at the initial stage and thereafter rule was also issued.

4. Mr. M.B.Savant, Chitnis to Collector, Panch Mahals District has filed affidavit which is at Page 11 to the petition. Therein, he has stated that for rehabiliation purpose, the Government by order dt. 2nd April, 1979 had sanction 115 Acres of land for being allotted to the land owners whose lands had been acquired. Subsequently, by special resolution dt. 1st June, 1979, the aforesaid land was reduced to the extent of 53 Acres - 11 Gunthas; that thereafter by subsequent resolution dt. 23 April, 1980, the said land was reduced to 50 Acres - 12 Gunthas of village Vejalpur in Halol Taluka of Panch Mahals District; that the lands were to be allotted to the persons affected/farmers of the acquisition of their land namely present petitioners and others. Now these lands were allotted to the present petitioners according to the norms laid in the aforesaid resolution. But, however the petitioners refused to take the said lands of village Vejalpur and they insisted to grant land at village Nikola on or about 27th January, 1980. That the statements were accordingly recorded by

the revenue authority on or about 27th January, 1980 for refusal to take said land offered by the Government under resolution dt. 23rd April, 1980. That under the circumstances, the petitioners could not be allotted the lands of village Vejalpur on account of their refusal. That therefore, there is no substance in the contentions raised by the petitioners and the petition be dismissed with costs.

5. It appears from the record that initially the Government has set apart 115 Acres of land but subsequently it was reduced to 53 Acres approximately and it was then further reduced approximately to 50 Acres of land. They have allotted the lands to different persons, but the petitioners have been left out.

6. Even letters show that the matter was in progress and land can be allotted. Letter dt. 2/5/1978 which has been placed as Annexure A at Page 8 which goes to show that some lands have been set apart for being allotted to the persons whose lands have been acquired and the Collector has been directed to forth with allot the lands.

7. Second letter dt. 2nd April, 1979 has been placed at Annexure : B. It also shows that 115 Acres of land has been set apart by the State and concerned officers have been directed to proceed ahead with the said matter.

8. Third letter dt. 19th March, 1980 placed at Annexure : C also shows that there are orders for allotment of lands of village Vejalpur in Halol Taluka of Panch Mahals District. The process was in progress.

9. The petitioners were under impression that the lands would be allotted to them. However no land has been allotted to them and no land has been kept reserved for being allotted to the petitioners. The grievance of the petitioners is that though several representations have been made time and again, the lands have not been allotted to them. It transpires from the document that some lands have been allotted to other persons whose lands have been acquired as aforesaid. So if some lands could be allotted to other land owners whose lands have been acquired as aforesaid, the petitioners should not have been left out. The petitioners stated that they have never refused to accept the lands but it would not be possible for them to accept the lands if the area is meagre or substantially less than what they would expect.

10. Any way, some lands have been allotted to other persons, the petitioners are similarly situated and therefore they should also be similarly treated in order to meet the ends of justice.

11. In the aforesaid view of the matter, I am of the view that the respondents should be directed to allot lands to the petitioners at par with the allotment made to other land owners. No further relief can be extended by this court.

12. In the aforesaid view of the matter, present special civil application is allowed. The respondents are directed to allot the lands to the petitioners at par with the lands allotted to other land owners whose lands have been similarly acquired for the aforesaid project. The respondents shall allot the land to the petitioners as aforesaid within four months from the date of receipt of this order by the Collector, Dahod. Learned counsel for the petitioner agrees that he would serve the copy of this order to the Collector at Dahod for implementation of this order of this court. Rule is made absolute to the aforesaid extent. Considering the facts and circumstances of the case , there shall be no order as to costs.

Date: 28/4/2000. (D.P.BUCH, J.)
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